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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,770	11/30/2001	Carl D. Ceresoli	9546-002-27	4875
24283	7590	09/23/2004	EXAMINER	
PATTON BOGGS 1660 LINCOLN ST SUITE 2050 DENVER, CO 80264			GELIN, JEAN ALLAND	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/996,770

**Applicant(s)**

CERESOLI ET AL.

**Examiner**

Jean A Gelin

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 21-35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-14 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/7/02, 11/7/02.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-20, drawn to a system for allowing a user to obtain comprehensive vehicle radio listener statistics within a specific market, comprising a base station server capable of receiving radio parameter information from each of said plurality of vehicle-mounted field units located in each of said plurality of vehicles, and producing statistics based on said received radio parameter information, classified in class 455, subclass 2.01.

Group II. Claims 21-35, drawn to an apparatus for detecting the tuned station of a radio tuner connected to an antenna and a speaker, comprising a modulator, the modulator comprises an FM synthesizer and AM synthesizer, classified in class 455, subclass 179.1.

2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions invention I relates to monitoring and reporting radio listeners statistic for marketing purpose. Invention II relates to determining whether the AM and FM coded signal is recoverable from the received signal.

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3. These inventions are distinct for the reasons given above and have required a separate status in the art as shown by their different classification. Restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Gary Jarosik (Reg. No. 35,906) on 9/14/04 a provisional election was made without traverse to prosecute the invention of claims 1-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 21-35 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worthy (US 6,684,054) in view of Root et al. (US 6,013,007) further in view of Worthy (US 5,749,043).

Regarding claims 1, 15, Worthy teaches a system for allowing a user to obtain comprehensive vehicle radio listener statistics within a specific market (col. 2, lines 35-45), comprising: a plurality of vehicles (24), wherein a vehicle-mounted field unit is coupled to the radio of each of said plurality of vehicles (col. 4, lines 54-59); a base station server capable of receiving radio parameter information from each of said plurality of vehicle-mounted field units located in each of said plurality of vehicles, and

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producing statistics based on said received radio parameter information (col. 4, line 61 to col. 6, line 35); a communications means for facilitating two way communications between said base station server, and said plurality of vehicle-mounted field units (col. 6, lines 32-35).

Worthy (054) does not specifically teaches means, within each of said plurality of vehicle-mounted field units, for receiving global positioning system data indicative of position and time information of each of said plurality of vehicles.

However, the preceding limitation is known in the art of communications. An AM/FM/TV personal radio is coupled GPS receiver typically for providing time and current location of the mobile device (col. 4, lines 30-48). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made in order to implement the techniques of Root within the system of Worthy in order to locate the user of the receiver and know the radio station he is listening.

Worthy (054) in view of Root does not specifically teach a graphical user interface (GUI), provided by said base station server, in order to deliver reports to the user containing said statistics based on said received radio parameter information.

However, the preceding limitation is known in the art of communications. Worthy (043) teaches task 58 is performed to present a survey report to the user and displays a visual representation of the survey data which can be a graphical representation of the audience listening percentage for a particular radio station (col. 6, lines 6-55).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to implement the technique of Worthy (043) within the system of

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Worthy (054) and Root in order that the user at access site 16 hears information allowing the user to identify the radio programming while simultaneously viewing survey results for data collected when the radio programming was broadcast.

Regarding claims 2, 16, Worthy (054) in view of Root further in view of Worthy (043) teaches all limitations above. Root further teaches wherein said radio parameter information includes global positioning system coordinates and at least one of the following radio station; station preset information; and current frequency setting (col. 7, lines 36-50).

Regarding claims 3, 17, Worthy (054) in view of Root further in view of Worthy (043) teaches all limitations above. Root further teaches wherein said radio parameter information includes a volume percentage reading and global positioning system coordinates (col. 6, lines 50-56, col. 7, lines 16-25).

Regarding claim 4, Worthy (054) in view of Root further in view of Worthy (043) teaches all limitations above. Worthy (043) further teaches wherein at least a portion of said communications means for facilitating two-way communications includes a time division multiple access (TDMA) communications (col. 6, line 6 to col. 7, line 10).

Regarding claims 5, 18, Worthy (054) in view of Root further in view of Worthy (043) teaches all limitations above. Worthy (054) further teaches wherein at least a portion of said communications means for facilitating two-way communications includes a cellular telephone communications (col. 6, lines 31-35).

Regarding claims 6, 19, Worthy (054) in view of Root further in view of Worthy (043) teaches all limitations above. Root further teaches wherein said GUI is provided

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by said base station server to the user over at least a portion of the global Internet (col. 8, line 63 to col. 9, line 30).

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Worthy (US 6,684,054) in view of Root et al. (US 6,013,007) further in view of Worthy (US 5,749,043) and further in view of Bouyssounouse et al. (US 4,354,275).

Regarding claim 20, Worthy (054) in view of Root further in view of Worthy (043) teaches all limitations above except fifth computer readable program code means for causing the computer to send an acknowledgment to said vehicle-mounted field unit located in said vehicle via said two-way communications network.

However, the preceding limitations is known in the art of communications. Bouyssounouse teaches in response to receipt by the local CB radio of an acknowledgment message from a listener, the listening circuit detects the acknowledgement message and transmits a signal to the portable unit indicating receipt by the listener (col. 2, lines 36-50). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to implement the technique of Bouyssounouse within the system Worthy (054) Root, and Worthy (043) in order that upon detection of the acknowledgement message, the listening circuit applies a signal to the power supply to turn-off power to certain elements of the communicating apparatus, thereby conserving power.

***Allowable Subject Matter***

8. Claims 7-14 are allowed.

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9. The following is a statement of reasons for the indication of allowable subject matter: the prior teaches a method for allowing a user to obtain comprehensive vehicle radio listener statistics within a specific market as disclosed in the rejection above.

On the other hand, the Applicant teaches, inter alia, the steps of producing statistics based on said received radio parameter information and said received time and global positioning system coordinate data; and delivering, via a graphical user interface (GUI), a report to the user containing said statistics based on said received radio parameter information and said received time and global positioning system coordinate data. These limitations, in conjunction with all limitations of the independent claim have not been disclosed, taught, or made obvious over the prior art of record.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bell et al.	US 2002/0120501 A1	Aug. 29, 2002
Tanaka et al.	US 6,466,765 B1	Oct. 15, 2002
Worthy	US 6,684,054 B1	Jan. 27, 2004
Ogasawara	US 6,760,652 B2	Jul. 06, 2004
Milewski et al.	US 6,289,346 B1	Sep. 11, 2001

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A Gelin whose telephone number is (703) 305-4847. The examiner can normally be reached on 9:30 AM to 7:00 PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEAN GELIN  
PRIMARY EXAMINER

JGelin  
September 21, 2004

